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SUBMISSION TO
THE ROYAL COMMISSION
ON
THE WORKMEN'S COMPENSATION ACT

TORONTO, ONTARIO

August 16th, 1966

**Retail Council of Canada
Suite 705 - 74 Victoria Street
Toronto 1, Ontario**



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The Honourable George A. McGillivray,
Commissioner,
The Royal Commission on
The Workmen's Compensation Act,
Box 202, Parliament Buildings,
Toronto 2, Ontario.

Sir:

INTRODUCTION

1. Retail Council of Canada appreciates this opportunity of presenting to you its views on:
 - (a) The content of the Workmen's Compensation Act, and
 - (b) The operation of the Act in other than matters of detail and administration.
2. This Council is the successor organisation to Canadian Retail Federation. Its direct membership comprises a large proportion of the medium-sized and larger retailers doing business in Ontario. Filed with this submission as an exhibit is a list of our direct members doing business in Ontario. These direct members perform some 35% of the total retail store business carried on in the Province. Affiliated with the Council are a number of specialised retail trade associations also listed in the exhibit referred to above.

FRAMEWORK OF THE ONTARIO WORKMEN'S COMPENSATION LEGISLATION AND ITS APPLICATION BY THE WORKMEN'S COMPENSATION BOARD

3. Our members have expressed general satisfaction, both with the principles and most of the detail of the Ontario Workmen's Compensation legislation. They are also well satisfied with the Act's administration by The Workmen's Compensation Board. They believe that the Ontario Board's reputation as a model administration in this field is well-deserved.
4. While details of the administrative and clerical procedures adopted by the Board are expressly excluded from the terms of reference of the Commission, the Council wishes to take this opportunity of expressing its approval of the progressive spirit shown by the Board in utilising efficient administrative and clerical procedures.
5. Because of the nature of the trade, the retail industry has one of the most favourable experience records of any employer group. The industry has, however, a lively interest in safety and Workmen's Compensation. The trade is labour intensive - one person in seven in Ontario is employed in the distributive sector. An accident rate low in proportion to the number of employees can still imply substantial numbers of compensable incidents. So far as costs are concerned relatively small variations in contribution rate can have significant effect on the costs.

COMMENT ON SPECIFIC SECTIONS OF THE ACT

PART I

Sections 3, 115 and 116: Aggravation of Pre-existing Conditions

6. The determination of whether an existing condition has been aggravated by an employee's work and the extent of the aggravation is always a difficult task. The Council knows the Board gives such cases close scrutiny and it wishes to express its hope that the Board continues to treat such incidents with particular care. It is our understanding that at one time the Board required proof of an actual accident that caused the aggravation. Apparently, the Board no longer requires proof of such an occurrence. While not infallible, it appears to us that the Board's former practice was reasonable and as practicable a test as any, and we recommend that, in the absence of any better criterion, consideration be given to its readoption.

Section 37: Level of Pensions

7. In Ontario, levels of these payments have been adjusted at regular intervals. The Council believes that such adjustments have generally kept pace with the cost of living and the ability of the Provincial economy to sustain increases. The Report of the Royal Commission established to review Workmen's Compensation legislation in British Columbia, recommended that the level of pensions be tied to the consumer price index. The Council is sympathetic to the concept that the value of such pensions should be related to the cost of living. It believes, however, that there are advantages in not irrevocably tying the level to the cost of living. There are occasions when it may be desirable for the sake of the stability of the economy to ensure that neither wages nor any other type of income move precisely in step with the cost of living. If a government is able to exercise restraint over wage increases, it would seem to be appropriate to reserve the same right in regard to Workmen's Compensation benefits. The Council, therefore, recommends continuation of the present system under which the Government has the opportunity of recommending periodic changes in compensation rates to the Provincial Legislature.

Sections 40 and 41: Scale of Compensation for Temporary
or Total Disability

(i) General

8. From time to time, suggestions are made that compensation payments for temporary disability should be set at the level of an employee's regular wage. The Council recommends against this suggestion. It is believed that the

possibility of an employee being required to bear a part of the cost of an accident can act as a deterrent to the adoption of unsafe working practices. Another consideration is that when an employee is absent from work because of a compensable condition, his expenses, such as travelling, clothing, meals, etc., are reduced while Compensation payments are not subject to income tax. Under the existing system, it is of course in the option of the employer to make up all or part of the salary of injured employees, but we believe it is important that this action continue to be at the discretion of the employer.

(ii) Canada Pension Plan - Overlapping of Benefits

9. It is our understanding that when the disability benefit provisions of the Canada Pension Plan become effective, it will be possible for a disabled employee to receive a greater income from the two sources of Canada Pension Plan and Workmen's Compensation benefits than he would in regular wages. This problem is obviously one which will be common to all Provincial Workmen's Compensation Boards and it seems appropriate that similar solutions be found for it. Certainly it is manifestly inappropriate that anyone should enjoy an increase in income as a result of indemnities paid because of a disability attributable to that person's employment. It would also be unfortunate if, through the cumulative effects of public insurance schemes, the principle of the employee himself bearing some modest part of the economic loss induced by the accident were not adhered to.

Section 44: Determination of Ceiling for Calculation of Average Earnings

10. From time to time suggestions are made for the increase in the ceiling rate on which average earnings are calculated. It would seem to be most equitable to all industries and to all employees within the industries that the ceiling is only raised when the earnings of a preponderance, and we would suggest a substantial preponderance, of employees covered by the Act exceed the existing maximum. We understand this situation has not yet been reached in Ontario and we recommend continuation of the present ceiling until the situation changes.

Section 52: Medical Reports

11. Employers are interested in learning of the progress of employees who experience compensable injuries or are afflicted with compensable diseases. Where the employee is away from work for only a relatively short period of time,

the employer has little difficulty in ascertaining the employee's progress. However, when the employee is off work for lengthy periods, the employer may experience difficulty in keeping in touch with him and ascertaining the state of his health and the probable duration of his absence from work. It is our suggestion that when an employee has been off work for, say, 13 weeks, the Board make a report to the employer on his condition and that a further report be made at the expiry of every succeeding 13 weeks, or such other, but pre-determined, period as is most suitable to the Board, during an employee's absence.

Section 115: Reports of Accidents

12. This section of the Act obliges employers to report to the Board within three days of an accident, the occurrence of the accident and full details of its occurrence. We understand that a digest of this information is later relayed by the Board to the appropriate Safety Association or Associations. It is our further understanding that the information actually reported to the Safety Association is often not sufficiently complete to enable the Association to take appropriate action in regard to the accident. The Safety Association may, for instance, wish to make a change in its recommendations for execution of the particular activity which caused the accident, or may wish to develop statistics related to the occurrence of this and other kindred accidents. It is our recommendation that the report form be so designed that that section of it which details the circumstances of the accident be reproduced in its entirety and be forwarded to the appropriate Safety Association.

Section 117: Formation of Associations and Committees

13. Retailers carrying on business in Ontario are members of the Industrial Accident Prevention Association, and representatives of these employers form a committee to advise on the activities of the Association which relate to their industry. The Council believes that the grant which the Board makes toward the operation of this Association is well-justified by the work which it, through its capable staff, undertakes and the results which it achieves. While it may not always be possible to establish a direct ratio between the expenditures made on accident prevention work and the reduction of compensation claims, it is clear that over the long term a relationship exists between the two. The Council is keen to see the work of this and related Associations continued.

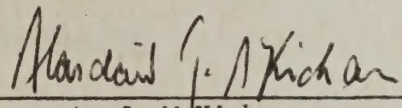
RELATIONSHIP WITH MEDICAL PRACTITIONERS

14. The Board must rely for the efficient operation of the Act on the co-operation of the medical profession and cannot in any way interfere with the professional decisions of practicing doctors. It is our belief, however, that it would be to the benefit of both doctors and their patients and would facilitate the efficient working of Workmen's Compensation procedure if some formal, continuing liaison between the profession as a whole and the medical staff of the Board were established. We had in mind here the distribution of bulletins and other informative material. We believe, for instance, that some doctors may not be aware of the variety of jobs which are available in many businesses for employees suffering from temporary or permanent partial disability, and again, that it may be worthwhile reminding doctors periodically of the therapeutic benefits to patients of their returning as soon as practicable to work adjusted to their current physical capability. Presumably the flow of more specific information on the availability of rehabilitation services would also be worthwhile.

CONCLUSION

15. Representatives of this Council will be happy to make themselves available for consultation with the Commission on any matter where they can be of assistance.

All of which is respectfully submitted.



A. J. McKichan
General Manager
Retail Council of Canada

Toronto, Ontario

August 16th, 1966

EXHIBIT
to Submission to the
Royal Commission on the
Ontario Workmen's Compensation Act

RETAIL COUNCIL OF CANADA

DIRECT MEMBERS

DOING BUSINESS IN THE PROVINCE OF ONTARIO

Aikenhead Hardware Limited
Allied Towers Merchants
D'Allaird's Limited
Andersons Limited
Bartlet, Macdonald & Gow Limited
R. A. Beamish Stores Co. Ltd.
Henry Birks & Sons Limited
Cameron-Jeffries (Toronto) Limited
Canada Safeway Limited
Canadian Food Products Limited
Canadian Tire Corporation Limited
C. Caplan Limited
Chapples Limited
Dack Corporation Limited
Dominion Stores Limited
C. J. Eames & Son Limited
The T. Eaton Co. Limited
Edwards Specialty Shop Ltd.
Ely Limited
Evangeline Shops Limited
Farrar's Clothes Limited
Feller Bros. Limited
A. J. Freiman Limited
Goudies Limited
Harold Heath Limited
Henry Morgan & Co. Ltd.
Holt Renfrew & Co. Ltd.
Honest Ed's Limited
Hudson's Bay Company
Kent Shoes Limited
S. S. Kresge Co. Limited
Laura Secord Candy Shops Ltd.
Loblaws Groceries Co. Limited

Gordon Mackay & Stores Limited
Maple Leaf Services
Metropolitan Stores of Canada
Michaud & Levesque Limited
Murphy-Gamble Limited
McNulty's Limited
Charles Ogilvy Limited
Passmore Stores Limited
Peoples Credit Jewellers Limited
Plaza Drug Stores Ltd.
Pollocks Shoes Limited
Reitman's Incorporated
The G. W. Robinson Co. Ltd.
The Ross Stores Company Limited
Sayvette Limited
Shaffer's Limited
Louis Shapiro (Wdsk) Limited
The Robert Simpson Co. Limited
Simpsons-Sears Limited
F. Slover Limited
Singer Co. of Canada Limited
Steinberg's Limited
W. H. Smith & Son (Canada) Limited
Stedman's - Division of Macleod Stedman
G. Tambllyn Limited
Tip Top Tailors Limited
Turners of Little Current Limited
United Cigar Stores Limited
Virginia Dare Limited
C. Wallace Co. Limited
F. W. Woolworth Co. Ltd.
Zeller's Limited

AFFILIATE TRADE ASSOCIATIONS

Canadian Jewellers Association
Canadian Restaurant Association
Canadian Shoe Retailers' Association

Canadian Retail Furniture Association
Ontario Pharmacists' Association
Stationery & Office Equipment Guild
of Canada

